REMARKS/ARGUMENTS

The claims are 5-6. Claim 1 has been canceled in favor of new claim 6. The subject matter of claim 2 has been incorporated into new claim 6 and claim 2 has accordingly been canceled. Claim 5 has been amended to depend on claim 6 instead of claim 2. Accordingly, claim 4 has been canceled as being redundant. Reconsideration is expressly requested.

Claim 1 was objected to because of the use of the word "especially" and the use of the phrase "by which". In response, claim 1 has been canceled in favor of new claim 6 which does not include the word "especially" or the phrase "by which". Therefore, it is respectfully requested that the Examiner's objections to the claims on the basis of these informalities be withdrawn.

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for using the phrase "can be pressurized" and for the use of the phrase "wherein the gas pressure source is replaceably connected". In response, Applicant's new claim 6 does not include the phrase "can be pressurized", and Applicant's new claim 6 also recites "at least

one valve" as an affirmative element (f) and "a plug-in coupling" as an affirmative element (e), which it is respectfully submitted makes clear that both of these elements are positive recitations of the claim. Accordingly, it is respectfully submitted that new claim 6 fully complies with 35 U.S.C. §112, second paragraph.

Claims 1-2 and 4-5 were rejected under 35 U.S.C. 103(a) as being unpatentable over *U.S. Patent No. 6,406,458* to *Tillander* in view of *U.S. Patent No. 5,571,261 to Sancoff et al.* alone (claims 1-2), or in further view of *U.S. Patent No. 6,510,965 to DeCottignies et al.* (claims 4-5).

Essentially, the Examiner's position was that *Tillander* discloses the claimed apparatus for the dosed dispensing of a fluid except for a replaceable gas pressure source that comprises a carbonate formulation pressed into a tablet and an organic acid, which was said to be disclosed in *Sancoff et al.* *Decottignies et al.* was cited with respect to claims 4 and 5 as showing first and second housing parts joined together at one side in an articulated manner with a latching device at the opposite side.

The Examiner asserted that it would have been obvious to one of ordinary skill in the art to adapt the gas pressure source of *Sancoff et al.* to the apparatus of *Tillander* because *Sancoff et al.* was said to provide "a way to create the pressurized chamber using something other than a big mechanical object or an awkward foot press, and it is even more helpful that the gas creating packet is replaceable." The Examiner also asserted that it would have been obvious to one of ordinary skill in the art to adapt the paired clamshell casing having a clamshell hinge and retaining clips of *Decottignies et al.* to the *Tillander* apparatus having the *Sancoff et al.* replaceable gas pressure source because *Decottignies et al.* was said to teach "a way to hold the whole apparatus together while making replacing the infusion bag and the gas pressure tablets that much more convenient."

The Examiner responded to Applicant's arguments of the April 9, 2009 Amendment in Response to First Office Action by asserting that both the *Tillander* and *Sancoff et al.* references specifically contemplate portability, and that Applicants' assertion of portability has been considered as merely an intended use without requisite structural limitations in the claims.

This rejection is respectfully traversed.

As set forth in new claim 6, Applicant's invention provides an apparatus for dosed dispensing of an infusion fluid. The apparatus includes a housing including detachably-interconnected first and second housing parts. The first housing part includes a pressurized medium chamber. A fluid-tight infusion bag forms an interchangeable fluid chamber that has a flexible wall received within the second housing part. A membrane in a region of a separation plane of the first and second housing parts seals off the first housing part from the second housing part.

A pressurized gas source is replaceably connected to the pressurized medium chamber for pressurizing the flexible wall. The pressurized gas source includes a carbonate formulation pressed into a tablet and an organic acid. A plug-in coupling replaceably connects the pressurized gas source with the pressurized medium chamber. At least one control valve or pressure reduction value associated with the housing is disposed between the plug-in coupling and the pressurized medium chamber, and the pressurized gas source is replaceably connected to the at least one valve.

In this manner, Applicant's invention as recited in new claim 6 provides an apparatus for the dosed dispensing of a fluid that can be produced in a cost effective way, is mostly reusable and causes only very low operating costs.

None of the cited references discloses or suggests an apparatus for the dosed dispensing of a fluid that includes a pressurized gas source which is replaceably connected with a pressurized medium chamber by way of a plug-in coupling and a control valve and/or pressure reduction valve, wherein the pressurized medium gas source comprises a carbonate formulation pressed into a tablet and an organic acid.

The primary reference to *Tillander* discloses a device for dispensing infusion fluids that has an accommodation for infusion bags that can be closed off with a lid and is provided in a housing. The infusion bag is laid into the device and can have pressure applied to it, in controlled manner, by way of a pressure means chamber to which pressure means can be applied, in order to dispense the infusion solution.

In particular, *Tillander* discloses a device for metered dispensing of a fluid, particularly an infusion fluid, that has a fluid chamber and a pressure medium chamber, by way of which a flexible chamber of the fluid chamber can have pressure medium applied to it from a gas pressure source. In this connection, the housing consists of two housing parts that are releasably connected with one another, of which one accommodates the fluid configured as a fluid-tight infusion chamber bag, in interchangeable manner. Furthermore, the housing part that forms the pressure medium chamber is sealed off from the housing part that accommodates the infusion bag, by means of a membrane.

In contrast to Applicant's apparatus as recited in new claim 6, the device of *Tillander* does not comprise a carbonate formulation pressed into a tablet, and does not comprise a gas pressure source that comprises an organic acid, which is connected with the pressure medium chamber by way of a plug-in coupling and a control valve and/or pressure reduction valve, in interchangeable manner.

There is no disclosure or suggestion in *Tillander* of specifically configuring this device to provide a gas pressure

source with carbonate formulations compressed into a tablet and an organic acid, which is replaceably connected with the pressure medium chamber by way of a plug-in coupling and a control valve and/or pressure reduction valve.

It is respectfully submitted that the gas pressure source with tablet and acid, equipped in replaceable form, is an important characteristic of Applicant's invention which must be considered in determining the patentability of Applicant's device as set forth in new claim 6.

The defects and deficiencies of the primary reference to *Tillander* are nowhere remedied by the secondary references to *Sancoff et al.* and *Decottignies et al.* Although *Sancoff et al.* discloses a device for metered dispensing of fluid, there is no disclosure or suggestion of **a replaceable gas pressure source.** *Decottignies et al.* merely discloses a metering device for fluids which is of a different type, not a device for the administration of infusion fluid. There is no disclosure or suggestion in either of these references of a replaceable gas pressure source, with a carbonate formulation compressed into a tablet and an organic acid. Thus, even if the hypothetical combination

suggested by the Examiner were made, one would still not achieve Applicant's apparatus as recited in new claim 6.

It is also respectfully submitted that Applicant's apparatus as recited in new claim 6 is not obvious in view of the combination of *Sancoff et al.* and *Tillander* for the additional reason that the gas pressure packet 120 of *Sancoff et al.* cannot be combined with the pressure infusion apparatus of *Tillander* without changing the principle of operation of the liquid delivery device of *Sancoff et al.*

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. See MPEP 2143.01 VI and *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349, 352 (CCPA 1959).

The liquid delivery device of *Sancoff et al.*, and more specifically the gas generating compartment 102 of the liquid delivery device of *Sancoff et al.*, are not capable, according to

the teachings of *Sancoff et al.*, of being combined with the connection nipple 19 of *Tillander* to make a functioning apparatus for the dosed dispensing of a fluid as recited in Applicant's new claim 6.

Sancoff et al. fails to disclose that the pouch 120 is replaceable. *Sancoff et al.* instead discloses that pouch 120 is place under depressible member 116 which is **sealingly** joined to the case of the device 100. See *Sancoff et al.* at column 16, lines 17-19. Furthermore, much of the portions of the gas generating compartment 102 of the device of *Sancoff et al.*, which gas generating compartment 102 includes depressible member 116, the pouch 120, the hole 122, and channel 115, are integral parts of the case or outer wall 105 of the device 100. See FIGS. 18 and 19 of *Sancoff et al.* Therefore, any replacement of pouch 120 would require substantial effort to break through parts of the gas generating compartment 102 such as the casing that forms the channel 115 and hole 122, or to break through the sealed depressible member 116, and then to reintegrate the opened portions of the casing or to reseal the unsealed depressible member 116 after a new pouch 120 had been placed in the compartment 102.

Furthermore, the pouch 120 of *Sancoff et al.* emits gas directly into a wide opening formed by hole 122 and channel 115. *Sancoff et al.* does not disclose any structure that would allow the pouch 120 or the gas generating compartment 102 to be combined with a plug-in coupling, which is an element recited in Applicant's new claim 6, and *Sancoff et al.* does not disclose any structure that would allow pouch 120 to be combined with the connection nipple 19 of *Tillander*.

Therefore, combining the pouch 120 of *Sancoff et al.* and the pressure infusion apparatus of *Tillander* would require an impermissible change in the principle of operation of the *Sancoff et al.* reference, so that Applicant's apparatus as recited in new claim 6 cannot be considered obvious in view of the Examiner's hypothetical combination of *Tillander* and *Sancoff et al.*

The defects and deficiencies of *Tillander* and *Sancoff et al.* are also not remedied by the addition of the dispenser of *Decottignies et al.* In addition to the device of *Decottignies et al.* being of a different type than Applicant's apparatus as recited in new claim 6, and merely disclosing a metering device for fluids, but not a device for the administration of infusion

fluid, *Decottignies et al.* fails to disclose a replaceable gas pressure source. Instead, the device of *Decottignies et al.* has a pump that is permanently snap-fastened to the other elements of the device housing. See *Decottignies et al.* at column 2, lines 33-38 and column 4, lines 39-41. A main purpose of the permanent fastening of the pump of the device of *Decottignies et al.* is to prevent tampering with the fluid in the product dispenser. See *Decottignies et al.* at column 2, lines 1-4.

Accordingly, it is respectfully submitted that new claim 6, and amended claim 5 which depends thereon, are not obvious in view of the Examiner's hypothetical combination of the pouch 120 of *Sancoff et al.* with the apparatus of *Tillander*, even when *Decottignies et al.* is taken into consideration.

In summary, claims 1, 2 and 4 have been canceled, claim 5 has been amended, and new claim 6 has been added. In view of the foregoing, withdrawal of the final action and allowance of this application are respectfully requested.

Respectfully submitted,
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